

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P802600/WO/1	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/000587	International filing date (day/month/year) 24.01.2004	Priority date (day/month/year) 19.03.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant DAIMLERCHRYSLER AG		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.
3.	This report is also accompanied by ANNEXES, comprising: <ul style="list-style-type: none"> a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>3</u> sheets, as follows: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4.	This report contains indications relating to the following items: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input checked="" type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

10/54914/
24 Jan 05

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Box No. I

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-11 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-9 _____ received by this Authority on 24.12.2004 with the letter of 20.12.2004
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/3-3/3 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-8	YES
	Claims	9	NO
Inventive step (IS)	Claims	1-8	YES
	Claims	9	NO
Industrial applicability (IA)	Claims	1-9	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
1 Reference is made to the following document:			
D1: US-A-3 100 392 (SKINNER ROBERT L) 13 August 1963 (1963-08-13)			
2 Novelty, inventive step and industrial applicability			
2.1 Independent device claim 9			
2.1.1 Independent device claim 9 attempts to define a device in terms of its suitability for testing the operation of hydraulic valves and for implementing a method. However, no structural technical features are indicated apart from that of a "test bench". Therefore, contrary to PCT Article 6, the intended limitations are not clear from the claim.			
2.1.2 Thus, when interpreting claim 9 it was assumed that the feature of the "test bench" is the only structural feature contained in the claim. Consequently, the subject matter of the claim is considered to be anticipated by document D1 (see			

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>the passages of text listed in the search report). The present application therefore fails to meet the requirements of PCT Article 33(1) because the subject matter of claim 9 lacks novelty (PCT Article 33(2)).</p> <p>2.2 Independent method claim 1</p> <p>2.2.1 Since none of the documents cited in the search report or acknowledged in the introductory part of the description discloses the features of independent claim 1 in their entirety, the subject matter of claim 1 is novel and therefore satisfies the criterion in PCT Article 33(2).</p> <p>2.2.2 None of the documents listed in the search report would prompt a person skilled in the art to provide the method steps as per the characterising part of claim 1 in a test method as per document D1, which is considered the prior art closest to claim 1 (see the passages of text listed in the search report). The subject matter of claim 1 therefore involves an inventive step (PCT Article 33(3)).</p> <p>2.3 The subject matter of claim 1 can be applied and used and is therefore also considered industrially applicable (PCT Article 33(4)).</p> <p>2.4 Claims 2-8</p> <p>Dependent claims 2 to 8 concern advantageous and</p>

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	<p>non-obvious developments of a method according to claim 1. Claims 2-8 thus likewise meet the PCT requirements in respect of novelty, inventive step and industrial applicability (PCT Article 33(2) to (4)).</p>

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Box No. VII **Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

Contrary to PCT Rule 5.1(a)(ii), the description does not cite document D1 or indicate the relevant prior art disclosed therein.